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In re Application of WOHLSTADTER et al

U.S. Application No.: 10/031,868

Int. Application No.: PCT/US99/10279

Int. Filing Date: 11 May 1999

Priority Date: 11 May 1998

Attorney Docket No.: 100390-06290

For: IMPROVED APPARATUS AND METHODS  
FOR CARRYING OUT ELECTROCHEMI-  
LUMINESCENCE TEST MEASUREMENTS

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 13 November 2001.

### **BACKGROUND**

On 11 May 1999, applicant filed international application PCT/US99/10279, which claimed priority of an earlier United States application filed 11 May 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 09 December 1999, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 13 November 2000 (11 November 2000 was a Saturday).

International application PCT/US99/10279 became abandoned as to the United States at midnight on 13 November 2000 for failure to pay the basic national fee.

On 13 November 2001, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

### DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

### CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 along with the appropriate late filing surcharge must be submitted.



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